WP(C) 1572/2003
BEFORE
HON'BLE MR. JUSTICE D.BISWAS
HON'BLE SMT. JUSTICE A.HAZARIKA

This writ petition is directed against the judgment and order dated 10.5.2002 passed by the Central Administrative Tribunal, Gauhati Bench, Guwahati in O.A. No. 12 of 2001. Being aggrieved by the aforesaid judgment and order, the Indian Council of Agricultural Research represented by its Director General has preferred this petition.

2. The respondents herein were appointed on various dates after 1.1.1977 in Grade T-I-3 of Category-I in the office of the Director, ICAR, N.E. Region. They filed the Original Application before the learned Tribunal praying for setting aside the order dated 2.12.99 and the order dated 27.9.2002. By the order dated 2.12.99, the original applicants who belonged to technical staff and were placed in Grade T-II-3 were reverted back to their original placement i.e. in Grade T-I-3. The order dated 2.12.99 was issued in pursuance of a judgment passed by the Jodhpur Bench of the Tribunal in O.A. No. 91/98 and also for the reason that the constitution of the Committee which recommended removal of the category bar for placement to higher grade was not in conformity with the prescribed rules of the Handbook of the Technical Services of the ICAR. By this order, all the technical staff including the original applicants placed in Grade T-II-3 were reverted back to their original position. The order dated 27.9.2000 pertains to placement of some of the employees in Grade T-I-3. The case of the original applicants before the learned Tribunal was that their placement in Grade T-II-3 of Category-II as ordered on 23.10.97 on the recommendation of the Committee should not have been recalled since all of them possess the minimum criteria prescribed for placement in the higher grade.

3. After hearing the learned counsel for the parties and on perusal of the documents on record as well as the relevant rules, the learned Tribunal came to the conclusion that the applicants being matriculate with 10 years of experience, were eligible for selection and placement in the higher grade. Their selection and placement as ordered earlier ought not to have been withdrawn without valid reasons and that too, without affording any opportunity to them of being heard. On this ground, the learned Tribunal set aside the order dated 2.12.99 as well as the order darted 27.9.2000 and directed the petitioners to give full benefit to the applicants as per order dated 23.10.97.

4. Mrs. R Choudhury, learned counsel vehemently argued that the applicants do not have the requisite criteria for consideration for placement in the higher grade. The minimum educational/ trade qualification prescribed for Category-II provides that matriculate employees with 10 years' experience in the relevant field and in service as on 1.1.1977 are only eligible for promotion against 33 1/3 % vacancies. The applicants were appointed after the cut-off date and, therefore, they are not eligible for promotion.

5. To appreciate the above contention, we may quote hereinbelow the minimum educational qualification/ trade qualification prescribed for appointment to Category-II which reads as under:-

Appendix IV
Minimum Educational/ Trade Qualifications for Different Groups of the Three Categories

CATEGORY I	CATEGORY II	CATEGORY III
Essential Qualifications	Essential Qualifications	Essential Qualifications

	(i) *Three years Diploma/ Bachelor's Degree in relevant field. Or ** National Trade Certificate of ITI National Apprenticeship Certificate or equivalent qualifications with seven years Experience in the relevant field. Or ** Matriculate with ten years experience in the relevant field.

6. The qualification prescribed in the third row of the second column Matriculate with ten years experience in the relevant field is qualified by two asterisk signs, which is expanded by the words Applicable to Council employees in position as on 1-1-77 for the purpose of promotions only against 33 1/3 % vacancies reserved for departmental promotions .

7. It would appear from above that the matriculate employees with ten years experience in the relevant field and in service as on 1.1.77 would be eligible for placement in Category-II. After having a look at the Rules, we are of the prima facie opinion that the original applicants do not fulfill the requisite qualification if the note against the asterisk marks is applicable to them. The documents submitted before us are not in original and, therefore, it would not be safe to interpret the relevance of the asterisk marks relying upon the loose copies of the documents produced.

8. After careful consideration of the gamut of the entire situation, we think that it would be appropriate to leave the matter to the appointing authority i.e. the writ petitioners to decide from the office records whether the qualification prescribed in the second column of the Rules as quoted above is only meant for the employees in position as on 1.1.1977 and if the answer is in negative, to examine the case of the applicants and to extend to them the benefit of the order dated 23.10.97 with effect from the dates shown against each of them in the said order. The exercise in this behalf shall be completed within a period of three months from the date when a copy of this judgment is furnished. Appropriate Committee may be constituted in accordance with the provisions of the Rules for this purpose.

9. The writ petition is disposed of in terms of the above direction. The judgment of the learned Tribunal accordingly stands modified.